

**AMENDMENTS TO THE DRAWINGS**

The attached drawing sheets include changes to Figures 3-6 to replace “EANV” with “ENAV”.

Attachment: Replacement Drawings Sheets - Figures 3-6

**REMARKS**

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 5-6, 8-9, 11, 15-18, 21-28 and 30 are pending, with claims 1, 5-6, 8-9, 11, 15-18, 21-22, 27 and 30 amended, and claims 2-4, 7, 10, 12-14, 19-20 and 29 cancelled without prejudice or disclaimer by the present amendment. Claims 1, 6, 11, 18 and 27 are independent.

In the Official Action, claims 1-30 were provisionally rejected on the grounds of non-statutory obviousness-type double patenting in view of claim 1, 4, 5, 8, 9, 11, 13-19, 21-23, 25, 30 and 33 of co-pending U.S. Appl. Ser. No. 10/713,850; and claims 1-30 were rejected under 35 U.S.C. § 102(e) as being anticipated by Lamkin (U.S. Patent Pub. No. 2005/0251749, now allowed).

Applicant notes that the claims of co-pending U.S. Appl. Ser. No. 10/713,850 were amended on May 27, 2008. Applicant submits it is premature to address the question of non-statutory obviousness-type double patenting until one of the applications in question are in condition for allowance.

The specification and drawings are amended to correct informalities noted by Applicant. Claims 1, 5-6, 8-9, 11, 15-18, 21-22, 27 and 30 are amended to more clearly describe and distinctly claim Applicant's invention. Support for this amendment is found in Applicant's originally filed specification. No new matter is added.

Applicant notes that Lamkin claims priority to a long series of continuation and continuation-in-part applications. Lamkin was filed in the U.S. on May 20, 2005 after the May 27, 2004 publication date of the present application, apparently copying and editing Applicant's published claims. However, Applicant submits that there is no support within the specification of Lamkin for the features recited in the claims of Lamkin. Indeed, the Official Action does not include a single

citation to the specification of Lamkin. Thus, apart from the claims, Lamkin does not disclose or suggest any of the features recited in Applicant's original claims, and the claims of Lamkin are invalid under 35 U.S.C. 112. Alternatively, assuming the claims of Lamkin are valid under 35 U.S.C. 112, Applicant submits that the effective date of Lamkin is May 20, 2005, which is after Applicant's U.S. filing date of November 13, 2002. Thus, Lamkin is not a proper reference under 35 U.S.C. 102. Nonetheless, to advance progress toward allowance, independent claims 1, 6, 11, 18 and 27 are amended to recite features recited in various corresponding dependent claims, along with additional features disclosed in Applicant's originally filed specification. Dependent claims 5, 8-9, 15-17, 21-22 and 30 are amended to maintain antecedent support and to more clearly describe and distinctly claim Applicant's invention. No new matter is added. Applicant reserves the right to file one or more continuation applications directed to Applicant's originally filed claims, as well as the right to invoke the interference procedures of the U.S. PTO to resolve which party is the first to invent the invention recited in Applicant's originally filed claims.

Furthermore, Applicant notes that many of Applicant's claims have been rejected in view of a combination of features selected from different claim sets (i.e., from within different independent/dependent claim families; e.g., Applicant's claims 3-5 being rejected in view of Lamkin independent claim 1 and dependent claims 25, 30 and 22). Because each independent claim appears to represent a separate embodiment of Lamkin, Applicant submits that rejections based upon combining claims from separate embodiments (i.e., separate independent claim families) are improperly based on 35 U.S.C. §102, and should instead be based on 35 U.S.C. §103(a). Furthermore, there must be a rational reason for combining features from one embodiment of Lamkin with features of another embodiment of Lamkin. Because the Official Action does not provide any reason, let alone a rational reason, for combining features from one embodiment of Lamkin with

features of another embodiment of Lamkin, Applicant submits the rejections of claims 3-5, 13-17, 19, 21 and 29 is improper in view of KSR v. Teleflex (127 S. Ct. 1727, 1740 (2007)).

Claim 1 recites, *inter alia*, if receipt of the contents information from the contents provider server is suspended or delayed, sending a last download position of the contents information in the buffer memory to the contents provider server, and sending a command for requesting re-sending of contents information subsequent to the last download position. Claims 1 and 8 of Lamkin do not disclose or suggest sending a last download position of the contents information in the buffer memory to the contents provider server. Similarly, neither the remaining claims nor the specification of Lamkin discloses or suggests sending a last download position of the contents information in the buffer memory to the contents provider server.

Claim 6 recites, *inter alia*, if receipt of the contents information from the contents provider server into the buffer memory is suspended or delayed and if a size of the contents information downloaded into the buffer memory and not reproduced yet is below a predetermined reference value, automatically pausing a data reproducing operation of the interactive optical disc for a predetermined period of time and, after the predetermined period of time, determining whether there is contents information received over the Internet. Claims 8 and 9 of Lamkin do not disclose or suggest Applicant's step of automatically pausing conditioned on two criteria. Similarly, neither the remaining claims nor the specification of Lamkin discloses or suggests Applicant's step of automatically pausing conditioned on two criteria.

Claim 11 recites, *inter alia*, if receipt of the contents information from the contents provider server is suspended or delayed, estimating a number of missed synchronizations during a corresponding suspension or delay period based on the counted synchronizations, and sending a command for requesting re-sending of contents information corresponding to the estimated number

of missed synchronizations; and in response to the command for requesting re-sending, receiving the contents information subsequent to the estimated number of missed synchronizations, and synchronizing and reproducing the contents information subsequent to the estimated number of missed synchronizations with the data read from the interactive optical disc. Claim 1 of Lamkin does not disclose or suggest Applicant's estimated number of missed synchronizations. Similarly, neither the remaining claims nor the specification of Lamkin discloses or suggests Applicant's estimated number of missed synchronizations.

Claim 18 recites, *inter alia*, receiving contents information from a contents provider server via the Internet, storing the received contents information in a buffer memory, synchronizing and reproducing data read from the interactive optical disc and the stored contents information, and calculating an offset between data read from the interactive optical disc and contents information received from the contents provider; and if receipt of the contents information from the contents provider server is suspended or delayed, sending a command for requesting re-sending of contents information and the offset to the contents provider server. Claims 17 and 22 of Lamkin do not disclose or suggest Applicant's offset between data read from the interactive optical disc and contents information received from the contents provider. Similarly, neither the remaining claims nor the specification of Lamkin discloses or suggests Applicant's offset between data read from the interactive optical disc and contents information received from the contents provider.

Claim 27 recites, *inter alia*, in response to the command for requesting re-sending, sending the contents information subsequent to the suspension or delay point, the indication including one of a) a last download position of the contents information in the buffer memory, b) information corresponding to an estimated number of missed synchronizations during a corresponding suspension or delay period, the estimated number of missed synchronizations based on a number of counted

synchronizations, and c) an offset between data read from the interactive optical disc by the interactive optical disc device and contents information received from the contents provider by the interactive optical disc device. Claims 1 and 5 of Lamkin do not disclose or suggest Applicant's claimed indication. Similarly, neither the remaining claims nor the specification of Lamkin discloses or suggests Applicant's claimed indication.

If the next Official Action includes a rejection based upon the claims of Lamkin, Applicant requests specific citations to the specification of Lamkin for the claimed features of Lamkin relied upon for the rejection.

MPEP § 2131 notes that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See also MPEP § 2131.02. "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Because Lamkin does not disclose or suggest all of the features recited in claims 1, 6, 11, 18 and 27, Lamkin does not anticipate the invention recited in claims 1, 6, 11, 18 and 27, and all claims depending therefrom.

Furthermore, contrary to the Official Action, claims 8 and 11 of Lamkin do not disclose or suggest delaying the re-synchronizing and reproducing until the size of contents information in the buffer memory and not reproduced yet becomes greater than or equal to the predetermined reference value, as recited in claim 8. There is no mention of actions taken in Lamkin when a size of data in a buffer is greater than or equal to a value.

Furthermore, contrary to the Official Action, claims 8 and 11 of Lamkin do not disclose or suggest resuming the paused data reproducing operation of the interactive optical disc if there is no

contents information received over the Internet after the predetermined time period has elapsed, as recited in claim 9. There is no mention of actions taken in Lamkin when no content is received after a predetermined time.

### **CONCLUSION**

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Michael E. Monaco Reg. No. 52,041 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

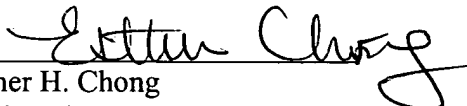
Application No. 10/714,434  
Amendment dated October 7, 2008  
Reply to Office Action of April 8, 2008

Docket No.: 1630-0411PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§ 1.16 or 1.147; particularly, extension of time fees.

Dated: October 7, 2008

Respectfully submitted,

By   
Esther H. Chong  
Registration No.: 40,953  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant

Attachments